

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE: MONITRONICS
INTERNATIONAL, INC.,
TELEPHONE CONSUMER
PROTECTION ACT LITIGATION

MDL NO. 1:13MD2493

THIS DOCUMENT RELATES TO ALL CASES

SUMMARY ORDER FOLLOWING INITIAL SCHEDULING CONFERENCE

On January 24, 2013, the Court convened an initial scheduling conference by telephone with counsel for all parties in this case. The plaintiffs, Edith Bowler, Janet Hodgkin, and Michael Hodgkin, appeared through their attorneys, Beth E. Terrell, Kim Williams, and Roblin John Williamson. The plaintiffs, Kenneth Clark and James G. Hough, appeared through their attorneys, Kim Williams and Roblin John Williamson. The plaintiff, Diana Mey, appeared through her attorneys, John W. Barrett and Jonathan R. Marshall. The plaintiff, Kerry O'Shea, appeared through her attorney, Ronald A. Marron. The plaintiff, George Cain, appeared through his attorney, Seyed Abbas Kazerounian. Finally, the plaintiff, Merrill Primack, appeared through his attorney, Francis Richard Greene. Attorney Kas Gallucci also appeared.

The defendant Monitronics International, Inc., appeared through its attorneys, Benjamin Dyer, Jeffrey A. Holmstrand, Kenneth E. Payson, Margaret Carlson, Meryl C. Maneker, and Yesha

Sutaria. The defendant, Versatile Marketing Solutions, Inc. (formerly Alliance Security, LLC and Alliance Security, Inc.), appeared through its attorneys, Christina S. Terek and John R. Teare, Jr. The defendant, UTC Fire & Security Americas Corp., Inc., appeared through its attorneys, Gordon H. Copland and Karen E. Kahle. Attorney Paul E. Vranicar also appeared.

Initially, the Court took up the matter of selecting liaison counsel. Pursuant to Pretrial Order #1 (dkt. no. 7), the plaintiffs submitted three nominations and the defendants submitted one. There were no objections to the nominations.

As requested by the plaintiffs, the Court **CONFIRMED** Jonathan R. Marshall as liaison counsel and John W. Barrett and Beth E. Terrell as co-lead counsel. Mr. Barrett and Ms. Terrell are charged with formulating (in consultation with other counsel) positions on substantive and procedural issues that may arise from time to time during the litigation. They will act for the group of plaintiffs' counsel – either personally or by coordinating the efforts of other attorneys – in presenting written and oral arguments and suggestions to the Court, working with opposing counsel in developing and implementing a litigation plan, initiating and organizing discovery requests and responses, conducting the principal examination of deponents, employing experts, arranging for support services, and seeing that schedules are met.

The plaintiffs' liaison counsel, Mr. Marshall, will assume responsibility for administrative matters, including communications between the Court and other counsel (such as receiving and distributing notices, orders, motions, and briefs on behalf of the group), convening meetings of counsel, advising parties of developments, and otherwise assisting in the coordination of activities and positions. He will also act for the group in managing document depositories and in resolving scheduling conflicts. Finally, Mr. Barrett and Ms. Terrell will present the position of the plaintiffs on issues where counsel are all aligned.

For the defendants, the Court **CONFIRMED** Jeffrey A. Holmstrand as the defense liaison counsel. The role of defense liaison counsel is essentially an administrative one, designed to give the Court one point of contact with the defendants for communications, scheduling, and other similar issues. In his capacity as defense liaison counsel, Mr. Holmstrand will perform the same role as that of Mr. Marshall, although he will not maintain a document repository for all defense counsel. Mr. Holmstrand is not authorized to speak for any defendant other than Monitronics with respect to legal issues, although the defendants anticipate that Monitronics will generally be taking a lead role on these issues since it is a defendant in all of the cases in the MDL. Mr. Holmstrand also will serve as lead counsel for Monitronics, with Meryl Maneker as co-lead counsel.

The Court **ORDERED** liaison counsel for the defendants, as soon as practicable, to submit an update to the Court regarding the status of the defendant, Lisa Haddad, d/b/a CCA Services, LLC, AlarmIllinois.com, and AlarmIndiana.com, and advise whether she intends to proceed pro se or by counsel.

Next, the Court took up the issue of how the litigation should proceed and **ORDERED** the plaintiffs to file a consolidated class complaint on or before **February 24, 2014**. The defendants shall have twenty-one (21) days from the date the consolidated complaint is filed to answer or otherwise respond.

Within thirty (30) days after the filing of the consolidated complaint, the plaintiffs shall file a supplemental statement providing, to the extent possible, the following information:

- The telephone number or numbers to which they contend calls were initiated in violation of the Telephone Consumer Protection Act (the "TCPA"), along with the type of telephone service (cellular or residential);
- The telephone company or companies that provided the service for each telephone number provided;
- Whether each telephone number provided was added to the National Do-Not-Call Registry, the date on which it was added, and whether it was ever removed;
- For each telephone number provided, the date and time, or dates and times, on which the plaintiff contends a call or calls were initiated in violation of the TCPA; and

- The person or entity that the plaintiff contends initiated each of the calls at issue.

Within thirty (30) days after the plaintiffs file their supplemental statement, the defendants shall file a supplemental statement providing, to the extent possible, the following information:

- The origination of the telephone numbers that the plaintiffs allege called them in violation of the TCPA;
- Third-party information regarding Monitronics' dealers; and
- From the defendants' perspective, information regarding each of the calls allegedly made in violation of the TCPA, to include the entity that made the call, the date and time on which it was made, the type of telephone service (residential or cellular) to which it was made, and the name of the individual or entity to whom it was made.

The Court also **ORDERED** liaison counsel to file a joint proposed protective order on or before **February 10, 2014**, and **VACATED** all motions pending in this MDL as of the date this Order is entered.

Finally, the Court **SCHEDULED** a status conference for **Monday, May 12, 2014 at 1:00 p.m.** at the **Clarksburg, West Virginia** point of holding court. Counsel may appear in person or by telephone. The plaintiffs' liaison counsel shall provide call-in information to

all parties and the Court one week prior to the scheduling conference.

It is so **ORDERED**.

The Court DIRECTS the Clerk to transmit copies of this Order to counsel of record.

DATED: February 11, 2014.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE